

REMARKS

Introduction

Prior to this Amendment, claims 1-50 are pending in this application, of which claims 23-50 have been withdrawn from consideration. By this Amendment, Applicants have amended claims 1, 9, 10 and 18.

Applicants do not acquiesce in the Examiner's rejections, but instead have elected to make the above-mentioned amendments in an effort to expedite prosecution of this application leading to issuance of a patent. Reconsideration of the application as amended above and in view of the following remarks is earnestly solicited.

Claim Objections / Allowable Subject Matter

Applicants thank the Examiner for indicating that claims 16-17 and 19-22 are allowable and claims 3, 5-6, 10, 14-15 and 18 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 1 has been objected to as missing the term "frame" after the term "intermediate." Applicants have amended this claim accordingly to overcome this objection.

Claim 18 has been objected to as containing the term "member" rather than "members." Applicants have amended this claim accordingly to overcome this objection.

Prior Art Rejections

The Examiner rejected claims 1, 2, 4 and 7 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,317,931 to Benoit et al. ("Benoit"). The Examiner has also rejected claims 9 and 11-13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,586,492 to Manahan ("Manahan"). The Examiner further rejected claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Benoit in view of U.S. Patent No. 5,715,548 to Weismiller et al ("Weismiller").

35 U.S.C. § 102(b) – Benoit

Claims 1, 2, 4 and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Benoit (US Patent No. 3,317,931).

Claim 1

Claim 1 is amended to incorporate subject matter from claim 3, which the Examiner has indicated would be allowable if rewritten in independent form. Specifically, in paragraph 8, pg. 5 of the Office Action, the Examiner commented that "one of ordinary skill in the art would not have found it obvious to modify the patient support of Benoit et al. '931 to include the use of an intermediate frame which is positioned *between first and second cross-*

members." In light of this Amendment and the Examiner's remarks, Applicants submit that claim 1 is *prima facie* allowable, whereby the rejection of claim 1 over Benoit is moot. Reconsideration is respectfully requested.

Claims 2, 4 and 7

Claims 2, 4 and 7 each depend from base Claim 1. In that claim 1 is believed to be allowable, claims 2, 4 and 7 are also believed to be allowable. Removal of the rejection and allowance of claims 2, 4 and 7 is respectfully requested.

35 U.S.C. § 102(b) - Manahan

Claims 9 and 11-13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Manahan (U.S. Patent No. 4,586,492).

Applicants respectfully submit that Manahan simply does not support the Examiner's rejection under § 102(b) in light of the amendments and arguments made in this response. The case law is clear on this point, "anticipation requires that a single prior art reference disclose every limitation of the patent claim." General Electric Co. v. Nintendo Co., 50 USPQ2d 1910, 1915 (Fed. Cir. 1999) (citing PPG Industries, Inc. v. Guardian Industries Corp., 37 USPQ2d 1618, 1624 (Fed. Cir. 1996)) ("to anticipate a claim, a reference must disclose every element of the challenged claims and enable one skilled in the art to make the anticipating subject matter."). More particularly, the Federal Circuit has held that the test for anticipation is "[t]hat which would literally infringe if later in time anticipates if earlier than the date of invention." Lewmar Marine, Inc. v. Barient, Inc., 827 F.2d 744, 3 USPQ2d 1776 (Fed. Cir. 1987), cert. denied, 484 U.S. 1007 (1988).

Independent Claim 9

The Examiner has failed to establish a *prima facie* case of anticipation by failing to particularly point out the elements in Manahan which allegedly correspond to each of the limitations of amended claim 9. In particular, Manahan fails to teach or suggest a patient support combination having step members extending from the interior region and configured to couple the intermediate frame to a weigh frame, as required by amended claim 9.

Therefore, Applicants believe that claim 9 is in condition for allowance with respect to Manahan. Removal of the rejection and allowance of claim 9 is respectfully requested. If the Examiner should disagree with the Applicants' arguments, the Examiner is asked to kindly point out with particularity where these limitations are expressly disclosed.

Dependent Claims 11-13

Claims 11-13 ultimately depend from independent claim 9. In that claim 9 is believed to be allowable, as discussed above, claims 11-13 are also believed to be allowable. Removal

of the rejection and allowance of claims 11-13 is respectfully requested.

35 U.S.C. § 103(a) – Benoit in view of Weismiller

Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Benoit in view of Weismiller (US Patent No. 5,715,548).

Claim 8

Claim 8 depends from claim 1. In that Applicants believe that claim 1 is *prima facie* allowable, as discussed above, claim 8 is also believed to be allowable. Removal of the rejection and allowance of claim 8 is respectfully requested.

Final Remarks

Applicants respectfully submit that claims 1-22 are now in condition for allowance. Such allowance is respectfully requested.

If necessary, Applicants request that this Amendment be considered a request for an extension of time for a time appropriate for the response to be timely filed. Applicant requests that any required fees for filing this Amendment be charged to the account of Bose McKinney & Evans LLP, Deposit Account Number 02-3223.

Respectfully submitted,

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